

AMENDED IN SENATE MAY 24, 2004

AMENDED IN SENATE MARCH 16, 2004

**SENATE BILL**

**No. 1223**

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**Introduced by Senator Kuehl**  
**(Coauthor: Senator Romero)**

February 11, 2004

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An act to add Section 1170.195 to the Penal Code, relating to juvenile crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 1223, as amended, Kuehl. Criminal law: juveniles.

Existing law provides for the prosecution of certain minors in adult court rather than in juvenile court.

This bill would *state legislative intent regarding its provisions, and would*, except as specified, give sentencing courts the discretion to review and reduce, suspend, or reduce and suspend the sentence of a minor who was prosecuted as an adult, after the person has served 10 years of his or her sentence or has reached the age of 25. This bill would authorize the court to consider specified evidence, in conjunction with any other evidence the court considers relevant, in making this determination. *It would also permit a 2nd review only in the event of a substantial change in circumstance.* By changing the penalty for a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. *It is the intent of the Legislature to provide a*  
2 *judicial mechanism for reconsidering the sentences of persons who*  
3 *were convicted of serious crimes they committed as children after*  
4 *these persons have become adults and served a significant amount*  
5 *of time in state prison.*  
6     SEC. 2. Section 1170.195 is added to the Penal Code, to read:  
7     1170.195. (a) Notwithstanding *any other provision of the*  
8 *law, and notwithstanding* subdivision (b) of Section 1168 and  
9 Section 1170, upon motion and after 30 ~~days~~ *days'* notice to the  
10 prosecution, the sentencing court may review the sentence of a  
11 person, who was under the age of 18 at the time of the offense and  
12 was prosecuted as an adult, after the person has served 10 years of  
13 his or her sentence or after the person has reached 25 years of age.  
14 After reviewing the sentence, the judge may suspend the sentence,  
15 reduce the sentence to any sentence that could lawfully have been  
16 ordered at the time of the original judgement, or both reduce and  
17 suspend the sentence, *provided that the person at the time of the*  
18 *hearing meets the eligibility criteria of the alternative disposition.*  
19 For purposes of this determination, the court may consider, in  
20 conjunction with any other evidence the court considers relevant,  
21 the person's disciplinary record, participation in education and  
22 other programs, and the testimony of character witnesses and  
23 expert witnesses. *Each person granted a review shall be entitled*  
24 *to a second review only in the event of a substantial change in*  
25 *circumstance.*  
26     (b) This section does not apply to a person sentenced pursuant  
27 to Section 190.2, subdivisions (b) to (i), inclusive, of Section 667,  
28 or Section 1170.12.  
29     SEC. 2. No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution because  
31 the only costs that may be incurred by a local agency or school  
32 district will be incurred because this act creates a new crime or  
33 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of  
2 the Government Code, or changes the definition of a crime within  
3 the meaning of Section 6 of Article XIII B of the California  
4 Constitution.

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